

### **Remarks**

Upon entry of the present amendment, claims 25, 28-33, and 36-40 will be pending in the instant application. Applicants have canceled claims 2, 26-27, and 34-35 without prejudice or disclaimer. Claims 25 and 33 have been amended to delete recitation of the polypeptide encoded by the cDNA contained in the ATCC Deposit No. Accordingly, no new matter has been introduced and entry of the present amendment and remarks are respectfully solicited.

#### **I. Rejections Under 35 U.S.C. § 112, Second Paragraph**

The Examiner has rejected claim 2 under 35 U.S.C. § 112, second paragraph as being indefinite because it is dependent on a canceled claim. *See*, Paper No. 1203, page 2, section 3. Applicants have canceled claim 2, thereby obviating the Examiner's rejection. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 112, second paragraph for alleged lack of definiteness.

#### **II. Rejections Under 35 U.S.C. § 112, First Paragraph**

The Examiner has rejected claims 25-40 under 35 U.S.C. §112, first paragraph for alleged lack of enablement. In particular, the Examiner alleges that

[a]lthough no prior art discloses amino acid residues 1 to 63 of SEQ ID NO:41 and has been found unique, it is not disclosed whether nucleotide sequence of HTELE03 cDNA contained in ATCC deposit No. PTA-498 is identical to the sequence encoding amino acids 1 to 63 of SEQ ID NO:41 or if it is different, what is the percent of similarity.

*See*, Paper No. 1203, page 3, section 5.

Applicants respectfully disagree. Applicants assert that the specification clearly describes and enables the relationship between the HTELE03 cDNA contained in ATCC

Deposit No. PTA-498 and the amino acid sequence of SEQ ID NO:41. In particular, the specification discloses, e.g., at page 9, line 31 to page 10, line 19, that due to the possibility of sequence errors that may have been generated by sequencing reactions, a sample of the plasmid DNA containing a human cDNA corresponding to the genes of the invention was deposited with the ATCC and given a specific ATCC Deposit No. Moreover, the specification further describes that one of skill in the art can easily determine the sequence of the deposited plasmid using known techniques of the art. In addition, the specification gives a detailed description of the gene of the present invention. For example, Table 1, at page 71, row 10 of the specification, discloses that Gene No. 12 of the instant invention relates to Clone ID HTELE03 which was deposited with the ATCC on August 11, 1999 and given the ATCC Deposit designation PTA-478. In addition, Table 1 discloses that the nucleotide and amino acid sequence corresponding to the HTELE03 cDNA is assigned SEQ ID NO:22 and 41, respectively, and provides the amino acids corresponding to the predicted signal sequence and the predicted secreted form of SEQ ID NO:41. Thus, Applicants contend that, upon reading the specification, skilled artisan would clearly understand the relationship between SEQ ID NO:41 and the HTELE03 cDNA contained in ATCC Deposit No. PTA-478 and would know how to use that information.

However, in the interest of facilitating prosecution, and in no way in acquiescence to the Examiner's rejection, Applicants have amended claims 25 and 33 to delete the recitation of the cDNA contained in the ATCC Deposit, thus obviating the Examiner's rejection. In addition, Applicants reserve the right to pursue the deleted subject matter in subsequently filed continuing applications. Accordingly, Applicants respectfully request

the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 112, first paragraph for alleged lack of enablement.

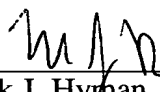
**Conclusion**

Entry of the above amendment is respectfully solicited. In view of the foregoing remarks, Applicants believe that this application is now in condition for allowance, and an early notice to that effect is urged. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the allowance of this application.

Finally, if there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the appropriate fee should also be charged to our Deposit Account.

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Respectfully submitted,

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